GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Kum.Sakuru Raga Chaitanya D/o.S.Venugopal Rao and Resident of Door.No.13-20-14, Chandaka Veedhi, Maharanipet, Viskhapatnam District, against the proceedings D.Dis. (C5)231/2004, dated 13.10.2010 of the District Collector, SPSR Nellore under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 104 Dated: 13-12-2017

Read the following:

1. Proceedings of the District Collector, SPSR Nellore, D.Dis.(C5)231/2004, dated 13.10.2010.
2. Appeal Petition filed by Kum. Sakuru Raga Chaitanya, D/o.S.Venugopal Rao, R/o Viskhapatnam District, dt.27.11.2010.
3. Govt. Memo No.10858/CV.2/2010, dated 10.02.2011.
4. Interim Order of the Hon'ble High Court in WP.MP.No.18356/2011 in WP no.15297/2011, dated 08.06.2011.
5. From the District Collector, SPSR Nellore, Lr.No.Rc.C5(M) 382/2014, dated 14.10.2014 & 05.02.2015.
6. Order of the Hon'ble High Court in WP. MP.No.18356/2011 in WP No.15297/2011, dated 27.11.2015.
7. Govt. Memo No. 10858/CV.2/2010, dated 03.05.2016.
8. Govt. Memo No. 10858/CV.2/2010, dated 01.06.2017.
9. Written arguments filed by the appellant through his counsel before the Appellate Authority on 24.06.2017.

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ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders canceling the ST – Yerukula Caste Certificate obtained from the then Tahsildar, Bogole Mandal, SPSR Nellore District in 1996 by Kum.Sakuru Raga Chaitanya D/o.S.Venugopal Rao.

2. In the reference 2nd read above, Kum. Sakuru Raga Chaitanya D/o S.Venugopal Rao, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, SPSR Nellore in the reference 3rd read above.

3. Kum. Sakuru Raga Chaitanya D/o. S.Venugopal Rao, has filed WP MP No.18356/2011 in WP.No.15297/2011, before the Hon'ble High Court of A.P., Hyderabad against the Government/ the Registrar, N.T.R. University of Health Sciences, Vijayawada, to process the admission of the petitioner basing on the caste certificate No.149/1996, dated 21.08.1996 issued by the then M.R.O., Bagole Mandal. In the reference 4th read above, the Hon'ble High Court of A.P., Hyderabad on 08.06.2017, in the said WP MP has ordered that as the order cancelling the petitioner's caste certificate has been suspended by the Court pending the petitioner's statutory appeal, which is yet to conclude, there shall be a direction to the respondents to consider the case of the petitioner for provisional admission on the basis of the said caste certificate. However, the petitioner shall not claim any equities on this ground and her admission shall be subject to the result of the statutory appeal.

[P.T.O]

4. In the reference 5th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Kum.Sakuru Raga Chaitanya D/o.S.Venugopal Rao.

5. In the reference 6th read above, the Hon'ble High Court of A.P., Hyderabad while disposing the W.P.No.15297/2011, on 27.11.2015 has ordered that the Writ Petition is dismissed as infructuous.

6. The said Appeal Petition has been posted for hearing on 14.05.2016 & 24.06.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 7th & 8th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The Counsel for the Appellant have attended for the personal hearing held on 24.06.2017 and submitted written arguments with the material papers in support of her community claim in the reference 9th read above.

7. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore , dated 13.10.2010, the Appellate Authority has observed that:

I. The appellant in her grounds/ written arguments has stated that the grandmother of the appellant viz., Peetla Gnanamma the daughter of Petla Ankayya and Petla Bhusamma of Kapparalatippa village, Nellore District and they belong to ST-Yerukula community, which is a Schedule Tribe under Presidential Order issued Article 341 of the Constitution of India. The said Peetla Gnanamma studied upto 5th class, she joined in Bitragunta Settlement Reformatory Primary School and after completion of 5th class, she joined in A.B.M. Girls High School, Nellore upto SSLC. But she failed in the SSLC Examination, and underwent nurse training course at Visakhapatnam. Thereafter, she secured Nurse appointment in the K.G. Government Hospital, Visakhapatnam. Subsequently, she was transferred to Government Hospital Chirala, Prakasam District. The said Peetla Gnanamma married one Billa Ramamurthy in the first instance and thereafter she divorced him. While she was doing her Nurse course at Visakhapatnam, she fell in love with Sakuru Tammarao of Chodavaram and later got married. Out of the said wedlock they got five sons and two daughters. All the sons and daughters were born in Kapparalatipa Village. In view of the employment of his grandmother Peetla Gnanamma, his father and his brothers were brought up by his great grandmother Peetla Bhusamma and they studied in Kapparalatippa village till the completion of their primary school education. The people of the Kapparalatippa village accepted the sons of the Peetla Gnanamma as Yerukula community, among the said five sons one Sakuru Venugopal, who is the father of the appellant herein in the eldest son.

II. The Government of India, Ministry of Home Affairs issued a letter dated 4th March, 1975 thereby explaining the legal position with regard to status of the children belonging parents, one of whom is a member of the Schedule caste or Scheduled Tribe community. As per the said letter, in the case of marriage between a tribal with non-tribal, the main factor for consideration is whether the couple were accepted by the society then their children shall be deemed to be Schedules Tribe. It is also mentioned in the said letter that when a Schedule Tribe women have children from marriage with a non-schedule Tribe and the said children

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may be treated as Scheduled Tribes, if the members of the Schedule Tribe community accepted them and treated them as Scheduled Tribes only. Basing on the said Guide lines, the Government of Andhra Pradesh issued G.O.Ms No. 371, dated 13th April, 1976 thereby stating that where either of the parent belong to Scheduled caste, scheduled Tribes or Backwards Classes, the child can be declared as belonging to the caste of either parent and they will be eligible for the concessions allowed to the persons of that caste. Basing on the caste certificate, issued by the competent authorities, the father of the appellant, his paternal uncles and paternal aunts have enjoyed and are enjoying the benefits conferred to a schedule tribe candidate.

III. The District Level Scrutiny Committee has observed that before the DLSC on 12.03.2003 the Appellant has stated that her grandmother (Smt.Peetla Gnanamma @ Savitri) belongs to Yerukala tribe and her grandfather (Sri Sakaru Thammarao) admittedly belongs to Kapu caste. Therefore, the father of the individual (Sri Sakaru Venugopal Rao) is an off-spring of, said to be tribal mother and non-tribal father. Further it is observed that the Caste status of Smt.Peetla Gnanamma, grandmother of the Appellant was recorded as Dasari in ABM Middle School, Kavali and ABM Girl's High School, Nellore as well as SSLC Register. Sri Sakaru Thamma Rao, grandfather of the Appellant admittedly belongs to Telaga (Kapu) caste. As Peetla Gnanamma belongs to BC community and her husband belongs to OC community their off-spring Venugopal Rao, father of the Appellant cannot claim ST status. He had also married OC woman. In the instant caste all the children of Smt Peetla Gnanamma,(grandmother of the Appellant) & Sakaru Thammarao (grandfather of the Appellant) have marital relations with the persons who belongs to forward caste, viz., Telaga (Kapu) and Sistikarnam caste. They are not in the fold of Yerukala community and they were not accepted by the tribal society. With a malafide intention, his family members have obtained certificates fraudulently from the Mandal Revenue Officers, Bogole that they belong to Yerukala-ST caste. The appellant's mother also belongs to Sistikarnam caste. This shows that they have no relationship with Yerukala tribe since two generations. The appellant has not followed the traditions & customs of Yerulula (ST) community. Further it is observed that before the DLSC, the appellant has not produced any relevant documents in support of her ST- Yerulula community claim. Finally, based on the DLSC findings, the District Collector, SPSR Nellore has cancelled the appellant's ST- Yerulula caste certificate.

IV. Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. The Appellate Authority has observed that during the course of arguments that the appellant filed written arguments along with the order of the Hon'ble High Court in W.P. No. 5168/2006, dated 10.06.2016 and G.O., issued by the Government vide G.O.Ms.No.25, T.W.(CV.2) Department, dated 03.04.2017 that the appeal petition filed by Sakuru Manoj Kumar, S/o S. Venugopala Rao, R/o Visakhapatnam, allowed by upholding him that he is ST-Yerukula. It is also observed that present appellant is none other than the sister of the above person (Sakuru Manoj Kumar) whose caste is upheld by the Government in the said G.O., as he is ST-Yerukula and as such the present case is also considerable. That as seen from the material available on record that

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the case of the appellant is also as per case of his brother who is Sakuru Manoj Kumar as such as the case of his brother was considered, that the case of the appellant shall also be considered in view of the earlier G.O., of his brother and accordingly liable to be interfered and that taking consideration of the above and the material available on the record more particular with regard to the G.O., of the appellant brother.

8. In view of the several reasons recorded in the paras supra and after careful examination of the appeal petition, the Government in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), hereby allow the Appeal Petition filed by Kum.Sakuru Raga Chaitanya D/o.S.Venugopal Rao, by upholding her Scheduled Tribe (Yerukula) claim and the Proceedings of the District Collector, SPSR Nellore issued in the reference 1st read above are set- aside.

9. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

10. The records (containing No.D.Dis.C5 (M) 231/2004, dated 13.10-2010 Pages: CF: 1-250, NF: 1-14) received from the District Collector, SPSR Nellore through the reference 5th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, SPSR Nellore.
(with original records) (BY RPAD)

Kum.Sakuru Raga Chaitanya
D/o S.Venugopal Rao
R/o Door.No.13-20-14,
Chandaka Veedhi, Maharanipet,
Viskhapatnam District.

M/s. M. Ravindra Nath and B. Suryanarayana, Advocates.
Plot No. 203, Lingapur House,
Himayathnagar, Hyderabad-29.

Copy to :

The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE & TWE).
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER